

ABSTRACT

Santy Wijaya **LEGAL CONSTRUCTION OF CONVENTIONAL USE OF OIL RESOURCES ACCORDING TO LAW NUMBER 2 OF 2001 CONCERNING OIL AND GAS IN THE DISTRICT OF MUSI BANYUASIN.** Under the guidance of Prof. Dr. Ade Saptomo.S.H.,M.Si as Promoter and Prof. Dr. Faisal Santiago,S.H,M.M as Co-Promoter.

In Indonesia there are 4,000 old oil wells that are no longer being exploited by Pertamina because it is not economical. Some of these old wells exploited in the traditional way, one of which was in Sungai Angit Village, Mangun Jaya Village, Pajering Village, Bayat Ilir Village, Suban Burung Village and Keluang Village, Musi Banyuasin Regency, South Sumatra Province. This activity, which is still within Pertamina's active mining environment, began in 1967. The existence of traditional oil mining has provided new jobs and increased the income of some residents, but has not actually played a role in financing village development. Provisions for the management of old oil wells have been clearly regulated in the Musi Banyuasin Regency Regional Regulation No. 26 of 2007 concerning Utilization of Old Wells and Minister of Energy and Mineral Resources Regulation No. 01 of 2008 concerning Guidelines for Oil Mining Concession in Old Wells. The regulation regulates the categories of old oil wells that are allowed to be mined according to established procedures. And this is one of the authorities of local government in managing and utilizing natural resources in their territory. However, with the existence of Law of the Republic of Indonesia Number 22 of 2001 concerning Oil and Gas, in upstream and downstream management activities, permits from the government and collaboration with contractors are required for providing capital and selling results. This is the polemic in enforcing criminal law cases in the oil and gas sector because in one area there are two legal norms that are equally valid. The problems in this study are more focused on the application of RI Law No. 22 of 2001 concerning Oil and Natural Gas by law enforcement officials and the authority of the Regional Government of Musi Banyuasin Regency based on Regional Regulation Number 26 of 2007 concerning the use of old oil wells in regulating an area and the construction of law enforcement by law enforcement officials in carrying out criminal actions in the oil sector and gas. In the concept of legal politics, it is the basic policy of administering the State in the field of law that will, is and has been in force, which originates from the values prevailing in society to achieve the goals of the State as aspired to include *ius constitutum* and *ius constituendum*. The legal politics of oil and gas management that apply at a certain time in Indonesia have different effects on the social welfare that is aspired to. So that there is a need for a direct social approach to the community what efforts have been made by the community in carrying out activities to utilize this oil well, because not a few people understand the law. This Activity has also been compared to other regions with the same problem but the obstacle is the management of legal permits. The perspective of control and exploitation of energy ownership is becoming increasingly blurred, even though Article 33 of the 1945 Constitution has provided limits to the ownership of natural resources by the State for the welfare of the people. Therefore, it is necessary to immediately reinterpret energy ownership in fact and de facto, in the development of oil and gas legal politics in Indonesia to return it to a de jure and ideal framework, which is in accordance with the spirit of Article 33 of the 1945 Constitution as the philosophical foundation of management law politics oil and gas, who are not judged to be in favor of Pertamina's monopoly with difficult bureaucracy.

Keywords: Old Wells, Regional Regulations, legal constructio, legal policy